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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 NASH M. TEAL,

15 Defendant.

Case No. 2:21-CR-00078-TOR

GOVERNMENT'S SENTENCING
MEMORANDUM

16 Plaintiff, United States of America, by and through Vanessa R. Waldref, United
17 States Attorney for the Eastern District of Washington, and Michael J. Ellis, Assistant
18 United States Attorney for the Eastern District of Washington, submits the following
19 sentencing memorandum.

20 **I. BACKGROUND**

21 The Government agrees with the Offense Conduct summary outlined in
22 paragraphs eight through fourteen of the Presentence Investigation Report. *See* ECF
23 No. 35 at 4–5. The Defendant, having absconded from supervised release, was found
24 to be in possession of over fifty Fentanyl laced pills that the Defendant intended to
25 distribute to other persons within the Eastern District of Washington.

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II. SENTENCING CALCULATIONS

A. Base Offense Level & Enhancements

The Government, having reviewed the Presentence Investigation Report, agrees that the Base Offense Level is sixteen (16) when considering all of the substances possessed by the Defendant. *See id.* at 5–6. Neither the Government nor the Defendant have objected to the Presentence Investigation Report’s calculation. *See* ECF Nos. 33 & 34. The parties also agree that the Defendant merits a three (3) level reduction for acceptance of responsibility under USSG §3E1.1(a) and (b).

B. Departures

The Government is not seeking an upward departure in this matter. A downward departure is not warranted for the reasons discussed below.

III. SENTENCING FACTORS UNDER 18 U.S.C. § 3553(a)

In determining the appropriate sentence, this Court should consider the factors as set forth in 18 U.S.C. § 3553(a).

A. The nature and circumstances of the offense and the history and characteristics of the Defendant

The nature and characteristics of the Defendant’s conduct justify a sentence of thirty-three (33) months imprisonment, with credit for time served since the Defendant’s arrest on February 5, 2021. The Government recommends that this sentence be run concurrently to the eighteen (18) month sentence imposed following the revocation of the Defendant’s supervised release in Case No. 2:14-CR-00104-TOR. *See* ECF No. 142 (2:14-CR-00104-TOR).

The Defendant’s ongoing criminal behavior over the past eight years is unacceptable and presents an ongoing threat to the community in Eastern Washington. Since the Defendant’s sentencing hearing for being a felon in possession of ammunition on December 4, 2014, the Defendant has repeatedly committed new offenses which include criminal mischief with a deadly weapon and the drug trafficking offense in this Indictment. *See* ECF No. 35 at 12–13. The Defendant’s

1 noncompliance has resulted in his repeated incarceration, to include four separate
2 revocations of his prior term of supervised release. *See id.* at 12. The Defendant's
3 most recent transgression – attempting to distribute Fentanyl, an extremely dangerous
4 controlled substance, in Eastern Washington – is the latest in a long line of misdeeds
5 that demonstrates the Defendant's lack of respect for both the law and the community.

6 The Defendant's conduct has not been previously addressed, as the alleged
7 violations of supervised release concerning the Defendant's drug possession were
8 ultimately dismissed by the Court. *See* ECF No. 141 (2:14-CR-00104-TOR). The
9 Defendant's eighteen (18) month sentence followed the Defendant's noncompliance
10 in other areas, ranging from failing to report to the Residential Re-Entry Center to
11 using alcohol. *See* ECF No. 142 (2:14-CR-00104-TOR).

12 A thirty-three (33) month sentence, with credit for time served dating to the
13 Defendant's arrest, is appropriate. The Court should also impose a three (3) year term
14 of supervised release, in order to both provide the Defendant opportunities for
15 rehabilitation and reintegration into the community while protecting the community
16 from continued potentially dangerous behavior.

17 B. The need for the sentence imposed to reflect the seriousness of the offense,
18 promote respect for the law, and to provide just punishment

19 The Government asks that the Court sentence the Defendant as described
20 above. Considering the nature of the offense and the Defendant's history, the proposed
21 sentence is appropriate to reflect the seriousness of the conduct, promote respect for
22 the law, and provide just punishment.

23 C. The need for the sentence imposed to afford adequate deterrence to criminal
24 conduct

25 As discussed above, a thirty-three (33) month sentence will hopefully deter
26 future violations of law by the Defendant.

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1 D. The need for the sentence imposed to protect the public from further crimes
2 of the Defendant

3 As discussed above, a thirty-three-month (33) sentence will protect the public
4 from future crimes by removing the Defendant from the community for a period of
5 time.

6 E. The need for the sentence imposed to provide the Defendant with needed
7 educational or vocational training, medical care, or other correctional
8 treatment in the most effective manner

9 The Defendant's behavior appears to be motivated, at least in part, by substance
10 abuse issues. The Defendant, while incarcerated and on supervised release, may have
11 opportunities to address those underlying concerns through treatment.

12 F. The kinds of sentences available

13 The Court may sentence the Defendant to up to twenty years in prison, a fine of
14 up to \$1,000,000, and three years of supervised release.

15 G. The kind of sentence contemplated by the Sentencing Guidelines

16 The Sentencing Guidelines contemplate a term of imprisonment or probation.

17 H. Any pertinent policy statements issued by the Sentencing Commission

18 There are no pertinent policy statements in this case.

19 I. The need to avoid unwarranted sentence disparity among defendants with
20 similar records who have been found guilty of similar conduct

21 A guideline sentence would avoid unwarranted sentence disparities.

22 J. The need to provide restitution to any victims of the offense

23 There is no restitution contemplated in this matter.

24 **IV. GOVERNMENT'S SENTENCING RECOMMENDATION**

25 The Government recommends that the Court impose a thirty-three (33) month
26 sentence of imprisonment with credit for time served dating to the Defendant's arrest
27 on February 5, 2021. The Government recommends that this sentence be run
28 concurrently with the Defendant's eighteen (18) month sentence following the

1 revocation of his prior term of supervised release. Finally, the Government
2 recommends that the Defendant be placed on three (3) years of supervised release.
3 Such a sentence is sufficient, but not greater than necessary, to accomplish the
4 purposes outlined in 18 U.S.C. § 3553(a).

5 Dated: February 1, 2022.

6 Vanessa R. Waldref
7 United States Attorney

8 s/Michael J. Ellis
9 Michael J. Ellis
10 Assistant United States Attorney
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CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Lorinda Youngcourt

s/ Michael J. Ellis
Michael J. Ellis
Assistant United States Attorney